Dear Maev,

Social Security (Penalty as Alternative to Prosecution) (Maximum Amount) Order 2015

At the end of the debate in Grand Committee on 28 January 2015 on the Social Security (Penalty as Alternative to Prosecution) (Maximum Amount) Order 2015 I promised to write to you on the detailed points you made during the course of the debate.

You asked about how the Department knows that administrative penalties have any effect and what evidence there is for setting the new maximum figure at £5,000. As we said in the Explanatory Memorandum there is no obvious estimate we can give of the deterrent effect through the number of frauds committed in the future. However it is important that we keep the existing penalties under review. As I said in my closing remarks overpayments between £4,000 and £10,000 are the second biggest category of fraud overpayments. Raising the limit of the penalty allows for greater flexibility within that group. Whilst the Department retains the policy to normally consider a prosecution where the overpayment is more than £2,000 there are cases within the £4,000 to £10,000 fraud overpayment group where offering an administrative penalty would be a better solution. We would use this administrative penalty (of the higher value) in cases where there are exceptional circumstances, this could cover a case of a claimant suffering a sudden serious illness or where there has been a family tragedy, after the investigation had reached the point of an interview under caution. In such cases referral for prosecution is unlikely to be considered in the first instance. In some cases the Crown Prosecution Service or the Crown Office of the Procurator Fiscal Service may consider an administrative penalty as a suitable means of disposal in the first instance and suggest that to the DWP.

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The amended maximum administrative penalty amount will be monitored to ensure its effectiveness. This change will be included as part of the Department’s overall monitoring and evaluation of all its’ fraud and error strategy initiatives.

Whilst there has been no recent research on the awareness of administrative penalties the Department makes every effort to inform people about the consequences of failing to do the right thing. On 20th October 2014 the Department launched a mixed media campaign in 47 locations, with a further 22 locations targeted with direct mail only. In this campaign and in more routine communications with claimants people are made aware of the financial penalties they may incur. The Department’s Penalties Policy is also available on the Gov.UK website.

You asked about the progress DWP has made towards its target of reducing the Monetary Value of Fraud and Error to 1.7% of total benefit expenditure by March 2015. As we will not have a definitive view of what has been achieved until publication of the Final Estimates for 2014/15 in November I do not think it would be particularly helpful to speculate on performance at this stage. I can assure you that the Department has a detailed plan for reducing levels of fraud and error which we keep under review. Indeed, through investment in technology including Real Time Information and through a comprehensive programme of case cleansing and bringing together fraud and error services into a single more effective entity and focusing on official error (which, in the latest estimates has dropped to its lowest ever level), it is envisaged that we will have saved several hundreds of millions of pounds of taxpayers’ money over the lifetime of this Parliament.

Our current fraud and error strategy runs to March 2015 and we are already working on our strategic approach for the next Parliament which will build on the progress we have already made as we continue to move towards full roll-out of Universal Credit the implementation of which is projected to reduce losses to fraud and error. In line with recommendations from the National Audit Office (NAO) and Public Accounts Committee, a draft Pension Credit strategy has been developed and a new Housing Benefit strategy is currently in preparation – other benefits will follow. This work is underpinned by benchmarking studies from the NAO and an in-depth analysis and understanding of key areas of loss.

The Explanatory Memorandum showed a fall in the number of administrative penalties between 2009/10 and 2013/14. This was mainly due to DWP’s Fraud and Error Service being focused in their investigations on the most serious fraud cases and investigating the full extent of those frauds with the aim of referring them for prosecution. However we recognise that we need to make good use of the full range of penalties available and keep them under

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review. Since new measures were introduced in the Welfare Reform Act 2012 the number of overall penalties administered has increased. This is because the new civil penalty may be imposed where the benefit overpayment is shown to be as a result of claimant error. As a result of concentrating resources in picking up and correcting cases of claimant error, 83,359 civil penalties with a value of £4.2m have, for example, been imposed by DWP between April 2013 and March 2014. This meant that in 2013/14 there were 112,946 penalties (including administrative penalties; civil penalties, cautions and convictions) in DWP and Local Authority benefit cases(1).

A copy of this letter will be placed in the House Library.

LORD BOURNE OF ABERYSTWYTH

(1) Some LAs impose civil penalties but there is no requirement for them to collect the data and pass it to DWP so we have no data on the number of LAs who do this or the number of penalties imposed.

Data – LAs from Housing Benefit Recoveries and Fraud data, DWP from internal statistics